

**FILED**

**JUL 26 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

CLAYTON W. GOTTSCHALK,

Petitioner - Appellant,

v.

ROSE DOMINICK,

Respondent - Appellee.

No. 05-36008

D.C. No. CV-04-00074-JWS

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Alaska  
John W. Sedwick, District Judge, Presiding

Submitted July 24, 2006\*\*

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Alaska state prisoner Clayton W. Gottschalk appeals from the district court's judgment dismissing his 28 U.S.C. § 2254 petition as unexhausted. We have jurisdiction pursuant to 28 U.S.C. §§ 1291 and 2253(a). We review de novo

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

a district court's determination as to whether a petitioner exhausted available state remedies. *Vang v. Nevada*, 329 F.3d 1069, 1072 (9th Cir. 2003). We affirm.

Gottschalk contends that the district court erred by dismissing his habeas petition as unexhausted because he sufficiently alerted the state courts of the federal nature of his juror misconduct claim. Upon review, we agree with the district court's conclusion that Gottschalk failed to fairly present this claim to the Alaska courts.

**AFFIRMED.**